

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER**

UNITED STATES OF AMERICA,)	
Complainant,)	
)	8 U.S.C. § 1324a Proceeding
v.)	
)	OCAHO Case No. 97A00103
CURRAN ENGINEERING)	
COMPANY, INC.,)	Judge Robert L. Barton, Jr.
Respondent.)	

SECOND PREHEARING CONFERENCE REPORT

(November 19, 1997)

As per oral and written notice to the parties, the second telephone prehearing conference was held on November 18, 1997. The purpose of the conference was to consider possible settlement in light of my October 31, 1997, Order granting in part and denying in part Respondent's motion to dismiss the complaint.¹ As directed by the notice of the second prehearing conference, Complainant filed a status report on settlement, and the parties have made some progress toward settlement. However, they were unable to reach agreement either prior to or during the conference.

As I ruled in the October 31 Order, if Respondent can show that Mr. Acosta-Medina's employment was terminated on April 22, 1992, Count I of the complaint would be barred by the statute of limitations. Respondent agreed to provide information to Complainant with respect to the termination date of Respondent's employee Jose Nery Acosta-Medina. I also informed the parties

¹ Although the parties had filed a signed Settlement Agreement dated June 20, 1997, Respondent had not waived the statute of limitations and asserted the same in its July 23, 1997, motion to dismiss the complaint. Although that motion was denied in substantial part, nevertheless count V was dismissed, and some question remains as to the viability of count I. Therefore, there is substantial doubt as to whether the Settlement Agreement can or should be enforced unless it is revised to take into account the October 31 ruling.

that, if the parties are unable to resolve the question of when Mr. Acosta-Medina's employment ended, Respondent may file a motion for summary decision supported by written evidence showing when the employment ended.

Regardless of whether settlement is achieved, Complainant was ordered to file a written status report on settlement negotiations not later than December 8, 1997. I will defer ruling on Respondent's motion to withdraw from the June 20, 1997, Settlement Agreement until then. If Respondent's motion is granted, Complainant has requested, and will be given, a ninety day period for discovery. Respondent has stated that it does not wish to conduct discovery.

ROBERT L. BARTON, JR.
ADMINISTRATIVE LAW JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of November, 1997, I have served the foregoing Second Prehearing Report on the following persons at the addresses shown, by first class mail, unless otherwise noted:

J. Stephen Butcher, Esq.
Gita Anoushirvani, Esq.
Immigration and Naturalization Service
606 South Olive Street
Los Angeles, CA 90053
(Counsel for Complainant)

Robert D. Curran
Curran Engineering Company
14741 Calvert Street
Van Nuys, CA 91411
(Respondent)

Dea Carpenter
Associate General Counsel
Immigration and Naturalization Service
425 "I" Street, N.W., Room 6100
Washington, D.C. 20536

Office of the Chief Administrative Hearing Officer
Skyline Tower Building
5107 Leesburg Pike, Suite 2519
Falls Church, VA 22041
(Hand Delivered)

Linda Hudecz
Legal Technician to Robert L. Barton, Jr.
Administrative Law Judge
Office of the Chief Administrative Hearing Officer
5107 Leesburg Pike, Suite 1905
Falls Church, VA 22041
Telephone No.: (703) 305-1739
FAX NO.: (703) 305-1515